

FRIENDS OF JAN SCHNEIDER 2008

P.O. Box 57

Sarasota, Florida 34230

Campaign: 941-351-2008

RECEIVED
OFFICE OF THE GENERAL COUNSEL
FEDERAL ELECTION COMMISSION

2008 AUG 13 A 9 59

August 10, 2008

By Facsimile (202-219-3923) and Mail

**Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463**

Re: MUR 5982 (Christine Jennings)

Dear General Counsel:

This is further to my letter of August 6, 2008 regarding our complaint against Christine Jennings, Chris Jennings for Congress, Christine Jennings for Congress and Jennings 2008: MUR 5982. In the August 6 letter, I advised the Federal Election Commission of our, albeit reluctant, intention to file in the District Court for the District of Columbia pursuant to 2 U.S.C. §437g(a)(8). Absent word from you, our target date for filing is Friday, August 15. Realistically, there is no other choice, since it is now a month beyond the 120 days and less than 90 days until the general election.

In my previous letter, I also indicated a reluctance to issue press releases or otherwise to comment publicly on ongoing legal or administrative proceedings. As a lawyer, I still very much prefer not to do so. In this case, however, the alleged violations have already greatly harmed our campaigns through two election cycles -- and appear to have continued into a third. Both Ms. Jennings and I, as well as Congressman Vern Buchanan (who was also potentially impacted), are running again this November. In the circumstances, after consultation with several attorneys concerning the timing issues, there appears to be very little practical alternative to going public.

Accordingly, attached is a copy of a press release we propose to issue on Thursday, August 14, unless we hear from you. While it appears to all of the lawyers who have reviewed it fully to conform to FEC confidentiality guidelines, we wanted to give the General Counsel's Office an opportunity to review it in advance. In so doing, please let me reiterate that my counsel and I remain well aware of, and in sympathy with, the problems encountered by the FEC due to the lack of a quorum for so many months. On the other hand, we are also, you will surely understand, very concerned about the brief time remaining until the election.

Thank you again for your consideration.

Sincerely,

Jan Schneider

Cc: Robert A. Burka, Esq.

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PRESS RELEASE

For Immediate Release

August 14, 2008

Contact: Paul Waters-Smith, 941-726-6378

SCHNEIDER DISCLOSES FEC COMPLAINT AGAINST JENNINGS

Jan Schneider, candidate for Congress in the Florida 13th Congressional District (NPA), has disclosed a complaint filed with the Federal Election Commission (FEC) against rival Christine Jennings (D). The statutory 120-day period for response by the FEC elapsed over 30 days ago. In consequence, given the short time until the 2008 general election, Schneider has no effective choice but to take this action and to challenge Jennings likewise to reveal her response to the complaint.

The Schneider complaint alleges that Jennings withheld large amounts of taxes from salaried campaign staff, failed to transmit them to the proper authorities, and instead used them for campaign expenses in violation of the Federal Election Campaign Act as amended by the Bipartisan Campaign Reform Act of 2002 (popularly known as the "McCain-Feingold Act") and other legislation. The misappropriation of funds is said greatly to have injured opponents – and Schneider in particular – in the Democratic primaries in FL13 in both 2004 and 2006 and in the current, 2008 election cycle. More than \$100,000 is believed to be in issue, and in some cases the taxes were not paid for more than three years and across three election cycles.

Schneider filed her complaint in mid-March, 2008. She waited until after the House of Representatives Committee on House Administration, following several Florida courts, ruled last February against Jennings on her contest of the 2006 election in which Vern Buchanan (R) was declared the winner. Unfortunately, the FEC itself was effectively out of commission between December 2007 and June 2008. During that time, due to a dispute between the White House and the Senate, the FEC had only two instead of the normal six commissioners (three from each major party). The Commission therefore lacked the four-person quorum needed to take official action.

Applicable law provides that a party aggrieved by failure of the FEC to act on a complaint during the 120-day period after filing "may file a petition with the United States District Court for the District of Columbia" in order to force Commission action. See 2 United States Code sec. 437g(a)(8). Although the delay here may be due to circumstances over which the FEC itself had little or no control, Schneider plans to file such a petition in the near future. She and her attorneys simply cannot wait any longer, given the response time accorded the FEC in the district court and the brief window before the November election in which all three parties most directly impacted – Schneider, Buchanan and Jennings – are again competing candidates.

Consequently, Schneider urges Jennings to disclose her response to the FEC complaint. In the 2006 primary, Jennings spent hundreds of thousands of dollars on attack ads and brochures concerning

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an alleged \$300 property tax dispute over a D.C. condominium owned by Schneider. In so doing, Jennings repeatedly insisted that she was simply "giving information to voters." If Jennings really believes her own submissions, then she should surely be willing also to give voters the facts and arguments concerning her own tax problems that involve hundreds of times as much money, that have already been the subject of penalties by federal and state taxation authorities (unlike her allegations regarding Schneider), and that are currently before the FEC. Nevertheless, to date Jennings appears to have attempted to hide her tax troubles not only from the public and opponents, but also from the FEC by failing to make required reports of disbursements.

To protect the interests of those involved in a complaint, the law requires that any FEC action be kept confidential until a case is resolved. "These provisions do not, however," according to the FEC, "prevent a complainant or respondent from disclosing the substance of the complaint itself or the response to that complaint or from engaging in conduct that leads to the publication of information contained in the complaint." See www.fec.gov/pages/brochures/complain.shtml#confidentiality. While she did not issue press releases or make other public statements upon filing her complaint, Schneider sees no alternative to taking advantage of the disclosure option at this time due to: (a) the delay by the FEC of more than one month beyond the 120-day deadline; (b) the brief period remaining before the upcoming election, (c) the fact that the alleged Jennings violations have already greatly injured her in three elections cycles (the 2004 and 2006 primaries and now the 2008 election), (d) the prior professed interest by the opposing candidate in informing (actually, misinforming) voters even as to matters on which there has been no legal action, and (e) the fact that the Jennings campaign has already begun repeatedly hurling tax and other accusations at least at one other opponent.

As a lawyer herself, Schneider chooses not to comment on the substance of ongoing proceedings before the FEC, other than by disclosing the attached text of her complaint. By contrast, the associated taxation violations by Jennings have already been ruled upon by federal and state tax authorities and resulted in very substantial fines and penalties.

Accordingly, as to the Jennings tax abuses, Schneider observes that she finds it "more than ironic" that, at the very time Jennings began broadcasting her misleading and nasty attacks over a \$300 annual assessment, Jennings had actual knowledge that her own campaign had failed to pay much larger amounts – thought to be over \$100,000 – in overdue taxes, interest and penalties, some for more than three years. Schneider deems this "shameful hypocrisy" and points out that "we already have enough hypocrites in Congress." "Worse still," she insists, "is the disservice to the voters of the Florida 13th Congressional District inherent in the type of personal attacks and character assassination indulged in by Jennings and also Buchanan in the last election."

Even against former Florida Secretary of State Katherine Harris, Schneider herself has refused to engage in "mudslinging." She has instead insisted on running on the issues. In this election, Schneider is fighting to end the war in Iraq now, to prevent similar mistakes in Afghanistan, to revive our failing economy, to save the middle class, to promote single-payer national health insurance, to support further campaign finance reform, and to restore integrity to government.

Attachment – Complaint (MUR), dated March 10, 2008

BEFORE THE FEDERAL ELECTION COMMISSION

JAN SCHNEIDER
Friends of Jan Schneider
P.O. Box 57
Sarasota, Florida 34236,
Complainant,

v.

MUR No. _____

CHRISTINE JENNINGS
Chris Jennings for Congress,
Christine Jennings for Congress &
Jennings 2008
PO Box 49136
Sarasota, FL 34236,
Respondent.

COMPLAINT

Respondent Christine Jennings withheld large amounts of taxes from salaried staff, failed to transmit them to the proper authorities, and instead used them for campaign expenses. The misappropriation of funds greatly injured opponents in the Democratic primaries in the Florida 13th Congressional District during both the 2004 and 2006 election cycles. In particular, the violations caused irreparable harm to Complainant Jan Schneider during both campaigns. Very considerable amounts are at issue, believed to be well upwards of \$100,000.

FACTS

Respondent Jennings withheld payroll and other taxes from campaign employees and then appropriated them for her own partisan purposes. She spent the funds in her primary campaigns and paid the Internal Revenue Service and state authorities only long after the taxes were due -- in some cases more than three years later and in another election cycle. Complainant relies upon the various campaign finance reports filed by the Jennings campaign committees of public record at www/fec.gov. The amounts in controversy were equivalent to significant portions of the entire campaign budgets of Jennings' opponents.

More specifically, for the 2004 election cycle, FEC filings by Chris Jennings for Congress appear to show that the campaign withheld payroll and other taxes from salaried staff. The Jennings campaign failed, however, to transmit the monies to the IRS and state authorities. No taxes were paid until May 23, 2007, several years after the 2003 and 2004 taxes were due. At that time, the committee paid the IRS \$23,835.93 to cover overdue taxes for the prior, 2004 election cycle. The candidate had to contribute additional funds to her committee, since the campaign had already spent the tax monies.

It might be understandable for a campaign -- even a campaign run by a former bank president whose supposed great pride was precision and "playing by the rules" -- to make a mistake and to

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overlook the requirement of withholding taxes for salaried staff. The Jennings campaign, however, went further, taking the money from employees and then illegally using the funds for its own purposes. Moreover, Respondent persisted in such illegal practices for years and across election cycles— even after she had indisputable knowledge of the problem.

For the 2006 election cycle, FEC filings for Christine Jennings for Congress appear to show that the Jennings campaign began having salaried employees at least back in early 2005. Once again, the campaign withheld funds from employee salaries, failed to transmit them to the federal and state authorities for many months and disbursed the money for campaign expenditures. FEC filings show that the first remittance of taxes withheld during the 2006 cycle was not made until July 31, 2006. Between that date and the end of 2006, the campaign made more than a dozen separate, significant tax payments totalling over \$100,000 apparently for past-due taxes. Meanwhile, very considerable funds that should have been paid in taxes had already been used for advertising, administrative and other expenses in the 2006 primary to the detriment of Complainant.

While the foregoing seems beyond dispute, for the 2008 election cycle, the circumstances are less clear. FEC filings for Jennings 2008, through and including the most recent (year-end 2007), continue to show large disbursements for payroll taxes seemingly disproportionate to the expenditures for current payroll.

The campaign compounded its illegalities with sheer hypocrisy. During the summer of 2006, the Jennings campaign expended perhaps hundreds of thousands of dollars on (false) campaign advertising complaining of an alleged failure to pay \$300 in property taxes on the part of Complainant. At the very time she contracted for and began running such ads, Respondent had actual knowledge that she herself had appropriated and wrongfully utilized tax monies taken from her employees in amounts hundreds of times greater. The main point for Federal Election Commission purposes remains, however, the campaign finance violations rather than the political effects on Complainant.


VIOLATIONS

The Federal Election Campaign Act, Pub. L. 92-225, 108 Stat. 86 Stat. 3, 2 U.S.C. § 431 et seq., as amended by the Bipartisan Campaign Reform Act of 2002 ("McCain-Feingold Act"), Pub. L. 107-155, 116 Stat. 81, and other legislation, sets forth specific limits on permissible campaign contributions and allowable loan conditions. Among other problems, the withheld funds here in question come within the definition of "contribution" for campaign finance law purposes. See 2 U.S.C. § 431(8). As such, their use violated applicable limits and otherwise contravened applicable legal restrictions. See, e.g., 2 U.S.C. § 441a.

Had Respondent failed to deal with payroll taxes at all and to do any withholding, that could still have been a problem for the Federal Election Commission as well as the Internal Revenue Service and state authorities. In such case, however, at least the campaign would not have enjoyed access to tens of thousands of dollars of additional funds used for competitive campaign purposes. But here, the Jennings campaign withheld the taxes from employees, failed to transmit them to federal and state authorities, and misappropriated them for its own expenses. In sum, in this and other ways, Respondent has committed multiple violations of federal

campaign finance laws and regulations, which violations harmed and continue to harm
Complainant.

Respectfully submitted,


Jan Schneider

STATE OF FLORIDA)
) SS:
COUNTY OF SARASOTA)

Signed and sworn to before me by Jan Schneider, who is personally well-known to me,
this 10th day of March, 2008.



My commission expires:

9/12/2011